

**§ 26.36 Public assemblies and meetings.**

(a) Public meetings, assemblies, demonstrations, parades and other public expressions of view may be permitted within a national wildlife refuge open to public use, provided a permit therefore has been issued by the refuge manager.

(b) Any application for such permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith.

(c) The refuge manager may issue a permit on proper application unless:

(1) A prior application for the same time and place has been made which has been or will be granted; or

(2) The activity will present a clear and present danger to public health or safety, or undue disturbance to the other users or resources of the area; or

(3) The activity is of such nature that it cannot be reasonably accommodated in the particular national wildlife refuge; or

(4) The activity conflicts with the purposes of the national wildlife refuge.

(d) The permit may contain such conditions as are reasonably consistent with protection and use of the national wildlife refuge for the purpose for which it is maintained. It may also contain reasonable limitations on the time and area within which the activity is permitted.

**§ 26.41 What is the process for determining if a use of a national wildlife refuge is a compatible use?**

The Refuge Manager will not initiate or permit a new use of a national wildlife refuge or expand, renew, or extend an existing use of a national wildlife refuge, unless the Refuge Manager has determined that the use is a compatible use. This section provides guidelines for making compatibility determinations, and procedures for documenting compatibility determinations and for periodic review of compatibility determinations. We will usually complete compatibility determinations as part of the comprehensive conserva-

tion plan or step-down management plan process for individual uses, specific use programs, or groups of related uses described in the plan. We will make all compatibility determinations in writing.

(a) *What information do we include in a compatibility determination?* All compatibility determinations will include the following information:

(1) The proposed or existing use;

(2) The name of the national wildlife refuge;

(3) The authorities used to establish the national wildlife refuge;

(4) The purpose(s) of the national wildlife refuge;

(5) The National Wildlife Refuge System mission;

(6) The nature and extent of the use including the following:

(i) What is the use? Is the use a priority public use?;

(ii) Where would the use be conducted?;

(iii) When would the use be conducted?;

(iv) How would the use be conducted?; and

(v) Why is the use being proposed?.

(7) An analysis of costs for administering and managing each use;

(8) The anticipated impacts of the use on the national wildlife refuge's purposes and the National Wildlife Refuge System mission;

(9) The amount of opportunity for public review and comment provided;

(10) Whether the use is compatible or not compatible (does it or will it materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purpose(s) of the national wildlife refuge);

(11) Stipulations necessary to ensure compatibility;

(12) A logical explanation describing how the proposed use would, or would not, materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purpose(s) of the national wildlife refuge;

(13) The Refuge Manager's signature and date signed; and

(14) The Regional Chief's concurrence signature and date signed.

(15) The mandatory 10- or 15-year re-evaluation date.

(b) *Making a use compatible through replacement of lost habitat values or other compensatory mitigation.* We will not allow compensatory mitigation to make a proposed refuge use compatible, except by replacement of lost habitat values as provided in paragraph (c) of this section. If we cannot make the proposed use compatible with stipulations we cannot allow the use.

(c) *Existing right-of-ways.* We will not make a compatibility determination and will deny any request for maintenance of an existing right-of-way which will affect a unit of the National Wildlife Refuge System, unless: the design adopts appropriate measures to avoid resource impacts and includes provisions to ensure no net loss of habitat quantity and quality; restored or replacement areas identified in the design are afforded permanent protection as part of the national wildlife refuge or wetland management district affected by the maintenance; and all restoration work is completed by the applicant prior to any title transfer or recording of the easement, if applicable. Maintenance of an existing right-of-way includes minor expansion or minor realignment to meet safety standards.

(d) *Termination of uses that are not compatible.* When we determine an existing use is not compatible, we will expeditiously terminate or modify the use to make it compatible. Except with written authorization by the Director, this process of termination or modification will not exceed 6 months from the date that the compatibility determination is signed.

[65 FR 62482, Oct. 18, 2000]

## PART 27—PROHIBITED ACTS

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AUTHORITY: Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); Sec. 5, 43 Stat. 651 (16 U.S.C. 725); Sec. 5, Stat. 449 (16 U.S.C. 690d); Sec. 10, 45 Stat. 1224 (16 U.S.C. 7151); Sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); Sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); 49 Stat. 383 as amended; Sec. 4, 76 Stat. (16 U.S.C. 460k); Sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) (5 U.S.C. 685, 752, 690d); 16 U.S.C. 715s).

SOURCE: 41 FR 9168, Mar. 3, 1976, unless otherwise noted.